



**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

1000 Washington Street, Suite 810 Boston, MA 02118-6200  
(617) 521-7794 • Toll-free (877) 563-4467  
<http://www.mass.gov/doi>

**CHARLES D. BAKER**  
GOVERNOR

**KARYN E. POLITO**  
LIEUTENANT GOVERNOR

**JAY ASH**  
SECRETARY OF HOUSING AND  
ECONOMIC DEVELOPMENT

**JOHN C. CHAPMAN**  
UNDERSECRETARY OF CONSUMER AFFAIRS  
AND BUSINESS REGULATION

**GARY D. ANDERSON**  
COMMISSIONER OF INSURANCE

**BULLETIN 2018-03**

**TO:** Commercial Health Insurers, Blue Cross Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations and Licensed Health Insurance Producers

**FROM:** Gary D. Anderson, Commissioner of Insurance

**DATE:** July 27, 2018

**RE:** Continuing Applicability of Massachusetts Health Insurance Legal Requirements to Association Health Plans

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The Massachusetts Division of Insurance (“Division”) issues this Bulletin 2018-03: Continuing Applicability of Massachusetts Health Insurance Legal Requirements, to remind health insurance carriers, including commercial health insurers, Blue Cross Blue Shield of Massachusetts, Inc., and Health Maintenance Organizations, and licensed insurance producers of the continuing applicability of Massachusetts legal requirements to health coverage products offered to Massachusetts individuals and employer groups with 50 or fewer employees.

The Employee Benefits Security Administration of the U.S. Department of Labor published a final rule on June 21, 2018 regarding association health plans (“AHPs”). We are issuing this bulletin in the event that the changes to federal rules may lead to confusion in Massachusetts regarding current Massachusetts requirements with respect to health coverage in the Commonwealth.

The preamble to the final federal rule regarding AHPs<sup>1</sup> states that the rule “does not modify or otherwise limit existing State authority....”<sup>2</sup> It is clear that Massachusetts law, including but not limited to Massachusetts’ law for individual and small group law coverage, M.G.L. c. 176J, and regulation 211 CMR 66.00, therefore continues to apply to health coverage offered to Massachusetts individuals and small employers. As set forth in M.G.L. c. 176J, eligible small businesses that are within a Multiple Employer Welfare Arrangement (MEWA) are subject to the requirements under M.G.L. c. 176J, as well as the provisions of any any other appropriate statutes.

The Division will expect, in relation to the provisions of M.G.L. c. 176D, that health carriers and licensed producers ensure that marketing materials and other related documents used in

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<sup>1</sup> Definition of “Employer” Under Section 3(5) of ERISA-Association Health Plans, Document Number: 2018-12992, 83 FR 28912, published on June 21, 2018.

<sup>2</sup> See *id.* at page 28936.

Massachusetts are in compliance with all appropriate requirements.

In addition, the Division reminds health carriers and licensed producers that Massachusetts law continues to require each adult Massachusetts resident to have health coverage that meets the Minimum Creditable Coverage (“MCC”) standards set by the Commonwealth Health Insurance Connector (“Health Connector”), unless plans meeting these standards are deemed unaffordable to that person according to Health Connector standards. As outlined in Bulletin 2008-02, carriers must disclose a plan’s MCC status to insureds and potential insureds.

If you have questions regarding this bulletin, please contact Kevin Patrick Beagan, Deputy Commissioner, Health Care Access Bureau at (617) 521-7323 or [Kevin.beagan@mass.gov](mailto:Kevin.beagan@mass.gov).